

## LEAVE OR RETURN – RIGHT TO

### II. GENERAL COMMENTS AND RECOMMENDATIONS

- CERD General Recommendation XXX (Sixty-fifth session, 2004): Discrimination Against Non-Citizens, A/59/18 (2004) 93 at para. 34.

...

[The Committee recommends]...that the States parties to the Convention, as appropriate to their specific circumstances, adopt the following measures:

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34. Take effective measures to prevent and redress the serious problems commonly faced by non-citizen workers, in particular by non-citizen domestic workers, including debt bondage, passport retention, illegal confinement, rape and physical assault;

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- ICCPR General Comment 28 (Sixty-eighth session, 2000): Article 3: Equality of Rights Between Men and Women, A/55/40 vol. I (2000) 133 at para. 16.

...

16. As regards article 12, States parties should provide information on any legal provision or any practice which restricts women's right to freedom of movement as, for example, the exercise of marital powers over the wife or parental powers over adult daughters, legal or *de facto* requirements which prevent women from travelling such as the requirement of consent of a third party to the issuance of a passport or other type of travel documents to an adult woman. States parties should also report on measures taken to eliminate such laws and practices and to protect women against them, including reference to available domestic remedies (see General Comment No. 27 paras. 6 and 18).

- ICCPR General Comment 29 (Seventy-second session, 2001): Derogations from provisions of the Covenant during a state of emergency, A/56/40 vol. I (2001) 202 at para. 13(d).

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13. In those provisions of the Covenant that are not listed in article 4, paragraph 2, there are elements that in the Committee's opinion cannot be made subject to lawful derogation under article 4. Below, some illustrative examples are presented.

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(d) As confirmed by the Statute of the International Criminal Court, deportation or forcible transfer of population without grounds permitted under international law, in the form of forced displacement by expulsion or other coercive means from the area

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in which the persons concerned are lawfully present, constitutes a crime against humanity.<sup>8/</sup> The legitimate right to derogate from article 12 of the Covenant during a state of emergency can never be accepted as justifying such measures.

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### Notes

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<sup>8/</sup> See articles 7 (1) (d) and 7 (2) (d) of the Statute of the International Criminal Court.

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- CERD General Recommendation XX (Forty-eighth session, 1996): Article 5: Non-Discriminatory Implementation of Rights and Freedoms, A/51/18 (1996) 124. For text of General Recommendation, see **EQUALITY AND DISCRIMINATION - RACIAL DISCRIMINATION**.
- CERD General Recommendation XXII (Forty-ninth session, 1996): Article 5 and Refugees and Displaced Persons, A/51/18 (1996) 126 at preamble and para. 2. For text of General Recommendation, see **EQUALITY AND DISCRIMINATION - RACIAL DISCRIMINATION**.
- ICCPR General Comment 15 (Twenty-seventh session, 1986): The Position of Aliens under the Covenant, A/41/40 (1986) 117 at paras. 7 and 8. For text of General Comment, see **ALIENS - GENERAL**.
- ICCPR General Comment 27 (Sixty-seventh session, 1999): Article 12: Freedom of Movement, A/55/40 vol. I (2000) 128 at paras. 8-21. For text of General Comment, see **MOVEMENT - FREEDOM OF**.
- CRC General Comment 6 (Thirty-ninth session, 2005): Treatment of Unaccompanied and Separated Children Outside their Country of Origin, A/61/41 (2005) 15 at paras. 83-88 and 93. For text of General Comment, see **CHILDREN'S RIGHTS - GENERAL**.